

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

November 3, 2005

A meeting of the Board of Environmental Protection was held on Thursday, November 3, 2005, at the Holiday Inn / Ground Round, Augusta, Maine. Matthew Scott, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

**Board:** Nancy Anderson, Denis Culley, Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Jean T. Wilkinson and Nancy Ziegler

Absent: Denis Culley departed at approximately 12:15 p.m.

<b><u>Staff:</u></b>	Bureau of Land and Water Quality	Dana Murch
	Bureau of Land and Water Quality	Richard Darling
	Bureau of Remediation and Waste Mgmt.	John James

**Others:** David P. Littell, Deputy Commissioner (arrived at approximately 12:30)  
Mary Sauer, Assistant Attorney General  
Cynthia S. Bertocci, BEP Executive Analyst  
Terry Hanson, Administrative Assistant

***(Meeting adjourned at approximately 3:30 p.m.)***

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:** None

**CHAIRMAN'S COMMENTS:**

The Chair reported that the Department's Deputy Commissioner will attend the afternoon session of the Board meeting, advising that Mr. Littell was attending the morning portion of the Casco Bay Conference.

**B. EXECUTIVE ANALYST COMMENTS:**

Uliano: The Chairman conducted a pre-hearing conference regarding the Uliano remand yesterday. Both the appellants and the applicants want to supplement the record. The Board will conduct a public hearing on that supplemental evidence. The hearing is tentatively scheduled for Ellsworth in March. Board staff will consult all Board members in advance of formally scheduling the hearing to enable all to participate.

Appeals: The Board has received several appeals regarding Department discharge permits associated with facilities on the Androscoggin River. Board staff will be working with the Chair and parties to establish a procedure for considering these appeals.

**D. BOARD CALENDAR:**

Correction regarding the start time for the public hearing on amendments to the Solid Waste rules pertaining to beneficial use. The hearing will be at 1:30 pm on November 17<sup>th</sup>, not 1:00p.m.

**E. DEPARTMENTAL ORDERS:**

Reviewed

**F. EXECUTIVE SESSION:**

None

**II CONSENT AGENDA ITEMS**

The Board voted (9-0-0-0) on a motion to approve consent agenda items 1, 2, 3, and 4 as presented. It was noted that agenda item #5 was withdrawn from consideration and will be considered at the next regular meeting.

*Board members Nancy Anderson, Denis Culley, Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Jean T. Wilkinson and Nancy Ziegler voted to support the motion.*

1. NORTHEASTERN ENVIRONMENTAL SERVICES, Orono – Administrative Consent Agreement (BRWM)
2. MICHAEL YOUNG, Eliot – Administrative Consent Agreement (BLWQ-Land)
3. JOSEPH HALEY d/b/a M&H CONSTRUCTION, Rangeley – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
4. CLIFTON E. MAREAN, Hollis – Administrative Consent Agreement (BLWQ – Land)
5. ~~REST A WHILE REALTY TRUST, Wells – Administrative Consent Agreement (BLWQ – Land)~~ **Withdrawn**

### III. Regular Agenda

1. MESSALONSKEE STREAM HYDRO LLC / UNION GAS HYDRO PROJECT (appeal by Friends of Kennebec Salmon)

Staff: Dana Murch, Bureau of Land and Water Quality

The Board voted (6-0-3-0) on a motion to affirm the Department permit L-22230-34-A-N approving the application of Messalonskee Stream Hydro LLC for a Maine Waterway Development and Conservation Act permit and Water Quality Certification for reconstruction of the Union Gas Dam Hydro project and deny the appeal by Douglas Watts on behalf of Friends of the Kennebec Salmon. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 630-640 and 06-096 CMR Chapter 2.

*Board members Denis Culley, Elizabeth Ehrenfeld, Donald Guimond, Virginia Plummer, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board members Nancy Anderson, Ernest Hilton and Matt Scott voted opposed.*

2. CHAPTER 531, REGULATIONS FOR WASTEWATER OPERATOR CERTIFICATION / AMENDMENT (post to public hearing)

Staff: Richard Darling, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to post draft Chapter 531, Water Operator Certification, as modified by the Board in Section 1C., for public hearing on December 15, 2005. The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

*Board members Nancy Anderson, Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Denis Culley was absent.*

#### MODIFICATIONS TO THE RULE:

1.C. **Provisional Certification.** Graduates of the New England Regional Wastewater Institute at Southern Maine Vocational Technical Institute, South Portland, Maine (**now Southern Maine Community College**); the Environmental Technology Course at Eastern Maine Vocational Technical Institute, Bangor, Maine (**now Eastern Maine Community College**); or other equivalent programs, are eligible for Grade III or lower...

3. CHAPTER 685 PAYMENT AND REIMBURSEMENT OF OIL TRANSFER FEES / NEW (adoption)

Staff: John James, Bureau of Remediation and Waste Management

The Board voted (8-0-0-1) on a motion to adopt as presented new Chapter 685 Payment and Reimbursement of Oil Transfer Fees to include the minor typographical changes contained in the errata sheet dated November 3, 2005. The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

*Board members Nancy Anderson, Elizabeth Ehrenfeld, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Denis Culley was absent.*

**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta at 9:00 a.m.  
November 3, 2005

**I. DEPARTMENTAL**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT:  
Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6)

David W. Hasson, Portland  
7695)

(Staff: Phil Garwood 287-

*Tentatively scheduled for Board action on December 1, 2005*

**II. CONSENT AGENDA ITEMS**

- 0031. NORTHEASTERN ENVIRONMENTAL SERVICES Orono – Administrative Consent Agreement (BRWM)
- 0092. MICHAEL YOUNG, Eliot – Administrative Consent Agreement (BLWQ-Land)
- 0133. JOSEPH HALEY d/b/a M&H CONSTRUCTION, Rangeley – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 0174. CLIFTON E. MAREAN, Hollis – Administrative Consent Agreement (BLWQ – Land)
- 0215. REST A WHILE REALTY TRUST, Wells – Administrative Consent Agreement (BLWQ – Land)

**III. REGULAR AGENDA ITEMS**

- 0251. MESSALONSKEE STREAM HYDRO LLC / UNION GAS HYDRO PROJECT (appeal by Friends of Kennebec Salmon)  
Staff: Dana Murch, Bureau of Land and Water Quality
- 179 2. CHAPTER 531 REGULATIONS FOR WASTEWATER OPERATOR CERTIFICATION / AMENDMENT (post to public hearing)  
Staff: Richard Darling, Bureau of Land and Water Quality
- 189 3. CHAPTER 685 PAYMENT AND REIMBURSEMENT OF OIL TRANSFER FEES / NEW (adoption)

Staff: John James, Bureau of Remediation and Waste Management

*\*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman*

***End of Regular Meeting***

BOARD TO RECONVENE AFTER LUNCH FOR PROCESS / ROLE DISCUSSION WITH STAFF

*Next Regular Board Meeting – Thursday, November 17, 2005 – Holiday Inn/Ground Round,  
Augusta*